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APPEARANCES: **Reptg. Chinook Solar, LLC:**
Douglas L. Patch, Esq. (*Orr & Reno*)
Nathaniel B. Morse, Esq. (*Orr & Reno*)
Heath Barefoot, Project Director
Joseph Persechino, Project Manager

Reptg. Counsel for the Public:
Heather Neville, Esq.
Assistant Attorney General
N.H. Department of Justice

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P R O C E E D I N G

1
2 PRESIDING OFCR. MARTIN: Hello. Good
3 afternoon. My name is Dianne Martin. I am the
4 new Chairwoman of the PUC and the SEC. I serve
5 as the Presiding Officer of this Subcommittee.
6 And today is December 3rd, and this
7 Subcommittee will be considering Site
8 Evaluation Committee Docket Number 2019-02, the
9 Application of Chinook Solar.

10 This is an application for a
11 certificate of site and facility to site,
12 construct and operate a 30-megawatt solar
13 energy generation facility and associated
14 electrical infrastructure, the "Facility", in
15 Fitzwilliam, in Cheshire County, New Hampshire.

16 I'll ask the Subcommittee members to
17 introduce themselves please. We can start with
18 Bill.

19 MR. OLDENBURG: Hi. My name is Bill
20 Oldenburg, the Assistant Director of Project
21 Development, at the New Hampshire DOT.

22 MR. PELLETIER: My name is Rene
23 Pelletier. I'm the Assistant Director of the
24 Water Division at New Hampshire DES.

1 DIR. ARVELO: Will Arvelo, Director
2 of Division of Economic Development, under the
3 Department of Business and Economic Affairs.

4 DIR. WILSON: Ben Wilson, Director of
5 the Division of Historical Resources, State
6 Historic Preservation Officer, with the
7 Department of --

8 MR. IACOPINO: Natural and --

9 DIR. WILSON: -- Natural and Cultural
10 Resources, no longer DRED.

11 MR. EATON: Tom Eaton, from Keene.
12 I'm a public member.

13 PRESIDING OFCR. MARTIN: And on the
14 phone?

15 MS. DUPREY: Susan Duprey. I'm a
16 public member.

17 PRESIDING OFCR. MARTIN: Hi, Susan.
18 Because you're on the phone, I'm just going to
19 ask you a few questions for 91-A purposes.

20 MS. DUPREY: All right.

21 PRESIDING OFCR. MARTIN: Why is it
22 not practical for you to be physically present
23 today?

24 MS. DUPREY: Because I'm in

1 California, wrapping up the building of a
2 house, and --

3 *[Court reporter interruption.]*

4 PRESIDING OFCR. MARTIN: Could you
5 repeat that please?

6 MS. DUPREY: Yes. Because I'm in
7 California, wrapping up the building of a home,
8 and I have to physically present in California
9 to do that.

10 PRESIDING OFCR. MARTIN: Thank you.
11 If anyone is with you, can you please identify
12 them?

13 MS. DUPREY: Only my dog.

14 PRESIDING OFCR. MARTIN: Thank you.
15 Looks like we have a quorum today. So, we can
16 proceed.

17 On October 18th, 2019, Chinook Solar,
18 LLC, the "Applicant", filed an Application for
19 a Certificate of Site and Facility seeking to
20 site, construct, and operate a 30-megawatt
21 solar energy generation facility and associated
22 electrical infrastructure in Fitzwilliam, in
23 Cheshire County, New Hampshire. The Facility
24 is proposed to be located on approximately

1 513 acres located south of New Hampshire Route
2 119, east of New Hampshire State Route 12, and
3 west of Fullam Hill Road. That's the
4 "Project". Directly east of the Project, and
5 west of Fullam Hill Road is a transmission
6 corridor comprised of a 345-kilovolt electric
7 transmission line owned by Eversource Energy,
8 along with a separate corridor containing two
9 115-kilovolt electric transmission lines, both
10 owned by National Grid PLC. The facility will
11 connect to the electric grid via one of the
12 115-kilovolt electric transmission lines.

13 On October 24th, 2019, the Attorney
14 General appointed Assistant Attorney General
15 Heather Neville to serve as Counsel for the
16 Public in this matter. I just want to put on
17 the record that I worked with Attorney Neville
18 recently in my job at the Attorney General's
19 Office. But I don't think that that creates an
20 issue for myself. Counsel for the Public
21 represents the public in seeking to protect the
22 quality of the environment and seeking to
23 assure an adequate supply of energy. Counsel
24 for the Public is accorded all the rights and

1 privileges, and responsibilities of an attorney
2 representing a party in a formal action and
3 serves until the decision to issue or deny a
4 certificate is final.

5 On November 8th, 2019, this
6 Subcommittee was appointed. Under RSA
7 162-H:4-a, I, a subcommittee "assumes the role
8 and is considered the committee, with all of
9 its associated powers and duties in order to
10 execute the charge given it by the
11 chairperson."

12 The authority for our proceeding
13 today is RSA 162-H:4 and 7. Notice of this
14 hearing was published in accordance with RSA
15 91-A:2, II. The notice was published on the
16 Committee's website and at the Public Utilities
17 Commission and the Department of Environmental
18 Services.

19 The first purpose of our meeting here
20 today is to determine whether the Application,
21 as filed, contains sufficient information to
22 carry out the purposes of RSA 162-H.

23 I'd like to open it up to the
24 Subcommittee to determine whether that is the

1 order in which they want to proceed, or whether
2 they would want to take up the waiver first?

3 *[No verbal response.]*

4 PRESIDING OFCR. MARTIN: No
5 preference?

6 DIR. ARVELO: No preference.

7 PRESIDING OFCR. MARTIN: Okay. Then,
8 we'll proceed with the determination of whether
9 the Application is sufficient.

10 We will also consider the Applicant's
11 Request for Waiver when Certain Decommissioning
12 Plan Requirements are necessary.

13 Copies of the Application were
14 forwarded to state agencies with permitting and
15 other regulatory authority. To date, we have
16 received responses from the Department of
17 Environmental Services - Water Division; the
18 Fish & Game Department; the Office of the State
19 Fire Marshal; the Natural Heritage Bureau of
20 the Department of Natural and Cultural
21 Resources; the Division of Historical Resources
22 of the Department of Natural and Cultural
23 Resources.

24 At this point, it appears that each

1 state agency has conducted a preliminary review
2 of the Application, and has advised the
3 Subcommittee that the Application is complete
4 from the perspective of the agency. No state
5 agency has advised the Committee that the
6 Application is insufficient.

7 In addition to the responses from the
8 various state agencies, the Subcommittee is
9 obligated to perform its own review and to
10 ascertain if the Application contains
11 sufficient information to carry out the
12 purposes of RSA 162-H. That is what we're
13 determining here today.

14 I will now take appearances from the
15 Applicant and from Counsel for the Public.

16 MR. PATCH: Good afternoon. My name
17 is Doug Patch, with the law firm of Orr & Reno.
18 And I am here representing Chinook this
19 afternoon.

20 And with me at the table today, Heath
21 Barefoot, who is the Project Director or
22 Manager; Nat Morse, who is an attorney with our
23 office; and then Joe Persechino, with Tighe &
24 Bond, who is also a Project Manager on this.

1 MS. NEVILLE: And good afternoon. My
2 name is Heather Neville. I'm an Assistant
3 Attorney General appointed as Counsel for the
4 Public.

5 PRESIDING OFCR. MARTIN: Thank you.
6 Thank you.

7 Are there any other interested
8 parties who would like to make an appearance?

9 *[No indication given.]*

10 PRESIDING OFCR. MARTIN: Okay. I
11 will now open the floor for discussion by the
12 Subcommittee, about whether the Application
13 contains sufficient information for us to carry
14 out the purposes of RSA 162-H.

15 MR. PELLETIER: Rene Pelletier, from
16 Environmental Services. As I looked into the
17 Application package, I did find it interesting
18 and great that they avoided all the wetlands
19 impacts and so forth. Alteration of terrain,
20 obviously, is going to be an issue when you're
21 working on 150 or 60 acres or so.

22 But I think we have enough in the
23 Application, from what I've seen, to make a
24 value judgment on the Application as submitted.

1 PRESIDING OFCR. MARTIN: Are there
2 any individual issues that anyone would like to
3 discuss?

4 MR. OLDENBURG: There were a couple
5 questions that were raised about the lease
6 agreements with the property owners, and
7 whether or not we wanted to see those. I don't
8 know if we need to just get a verbal commitment
9 that they exist, and we can have them on the
10 record. But I know that was a question there,
11 having the rights, the property access rights,
12 wasn't included as part of the Application.

13 PRESIDING OFCR. MARTIN: I had the
14 same concern that you do. And I went back and
15 looked at what they provided and the
16 requirement in rule, which is that there be
17 evidence of those things being included in the
18 Application.

19 And I think I was satisfied with Site
20 301.03(c)(6), that the inclusion of the
21 memoranda that they had, I went through those,
22 and I think they were sufficient to meet the
23 requirement of the rule.

24 I struggled a little bit more with

1 Site 301.03(c)(7). But there is a reference to
2 that in the Application, and the Application is
3 signed and sworn to by the Applicant.

4 So, I think it meets the
5 sufficient -- sufficiently meets the rule for
6 purposes of what we're doing today. But I
7 agree with you, I think it would be something
8 worth having going forward.

9 Anybody else?

10 *[No verbal response.]*

11 PRESIDING OFCR. MARTIN: Do I have a
12 motion?

13 MR. OLDENBURG: Madam Chair, I have
14 reviewed the Application, including its
15 attachments. And I've reviewed correspondence
16 from the various state agencies, including the
17 Division of Historical Resources; the
18 Department of Environmental Services -
19 Wetland -- or, Water Division, excuse me; the
20 Natural Heritage Bureau of the Department of
21 Natural and Cultural Resources; the State Fire
22 Marshal; and the Fish & Game Department. All
23 of these agencies report that the Application
24 appears to now be complete for their review. I

1 have not seen any state agency report that the
2 Application is insufficient.

3 I also note that the Applicant has
4 included correspondence from U.S. Army Corps of
5 Engineers, the U.S. Fish & Wildlife Service.
6 That will be helpful to us in our consideration
7 of this Application.

8 Based upon my own independent review,
9 I believe that the Application comports with
10 all of the requirements contained in RSA 162-H
11 for an application such as this, and also
12 complies with our current Administrative Rules.

13 Therefore, I move that we accept the
14 Application as complete, and authorize counsel
15 to prepare a written order finding the
16 Application to be complete.

17 PRESIDING OFCR. MARTIN: Is there a
18 second?

19 DIR. ARVELO: Second.

20 MS. DUPREY: Second.

21 *[Court reporter interruption.]*

22 DIR. ARVELO: Second.

23 PRESIDING OFCR. MARTIN: Because we
24 have a member of the Subcommittee calling in,

1 we will take a roll call vote.

2 (Presiding Officer Martin and
3 Atty. Iacopino conferring.)

4 PRESIDING OFCR. MARTIN: Oh. Is
5 there any further discussion outside the
6 Committee?

7 *[No indication given.]*

8 PRESIDING OFCR. MARTIN: No? Okay.
9 Start with you, Bill.

10 MR. OLDENBURG: Bill Oldenburg, aye.

11 MR. PELLETIER: Rene Pelletier, aye.

12 DIR. ARVELO: Will Arvelo, aye.

13 DIR. WILSON: Ben Wilson, aye.

14 MR. EATON: Tom Eaton, aye.

15 PRESIDING OFCR. MARTIN: And Dianne
16 Martin, aye.

17 MS. DUPREY: Susan Duprey, aye.

18 MR. IACOPINO: It's unanimous.

19 PRESIDING OFCR. MARTIN: Thank you.

20 Our next order of business is the
21 Applicant's Request to Waive Certain
22 Requirements for the Proposed Decommissioning
23 Plan. Under our Administrative Rule Site
24 301.08(d)(2), an applicant is required to

1 provide a decommissioning plan with their
2 Application. In this matter, the proposed
3 decommissioning plan is attached to the
4 Application as Appendix 16-C. The Applicant
5 has also filed a request that we waive the
6 requirement of the rule that requires, and I
7 quote, "All underground infrastructure at
8 depths less than four feet below grade shall be
9 removed from the site and all underground
10 infrastructure at depths greater than four feet
11 below finished grade shall be abandoned in
12 place."

13 In order to grant a waiver under Site
14 302.05, the Subcommittee must first determine
15 that the waiver is not statutorily prohibited.
16 If it is not statutorily prohibited, then a
17 waiver may be granted provided that the
18 Committee finds that the waiver serves the
19 public interest and that it will not disrupt
20 the orderly and efficient resolution of matters
21 before the Committee. In determining the
22 public interest, the Committee shall waive the
23 rule if compliance would be onerous or
24 inapplicable or the purpose of the rule would

1 be satisfied by an alternative method.

2 I'd like to lead off the discussion
3 on this issue. I believe that it would be
4 premature to rule on whether a waiver of the
5 requirement for removal of all underground
6 infrastructure at a depth less than four feet
7 below grade is appropriate at this early stage
8 in the process. A determination on the
9 substance of the request is something that is
10 better left to our adjudicative process. I
11 think it best if we consider this request after
12 hearing evidence on this issue from all parties
13 during our adjudicative proceeding.

14 One approach we could take today is
15 to grant the motion, in part, as it applies
16 only to the application requirement, and deny
17 the motion, in part, without prejudice, pending
18 a final determination at the adjudicative
19 hearing.

20 Any discussion from the Subcommittee?

21 MS. DUPREY: I think that --

22 MR. PELLETIER: I would agree. I
23 think it's a bit premature to grant an
24 exemption.

1 PRESIDING OFCR. MARTIN: Susan.

2 MS. DUPREY: I think that we need to
3 at least say that we're exempting it from the
4 application requirements. Otherwise, I think
5 it causes issues with the vote we just took.

6 PRESIDING OFCR. MARTIN: Yes. I
7 agree with that. And that's actually what I'm
8 proposing.

9 MS. DUPREY: I support that.

10 PRESIDING OFCR. MARTIN: Anything
11 else?

12 MR. OLDENBURG: Madam Chair, I agree
13 with your assessment of the request. The
14 substance of this request is best left to the
15 adjudicative process, after all parties have
16 had a chance to weigh in.

17 Therefore, I move that we grant the
18 motion, in part, as it pertains to the
19 application requirement, but that we deny the
20 motion, in part, without prejudice, as it
21 pertains to the substantive request to waive
22 the decommissioning requirement. We can
23 consider that as part of the adjudicative
24 process. I also move that counsel be

1 authorized to prepare an order incorporating
2 our discussion and ruling on this motion.

3 PRESIDING OFCR. MARTIN: Is there a
4 second?

5 MR. EATON: I'll second it.

6 PRESIDING OFCR. MARTIN: Thank you.
7 Is there any discussion on the motion?

8 *[No indication given.]*

9 PRESIDING OFCR. MARTIN: Okay. We'll
10 take a roll call vote on this one as well.
11 We'll start with Bill.

12 MR. OLDENBURG: Bill Oldenburg, aye.

13 MR. PELLETIER: Rene Pelletier, aye.

14 DIR. ARVELO: Will Arvelo, aye.

15 DIR. WILSON: Ben Wilson, aye.

16 MR. EATON: Tom Eaton, aye.

17 MS. DUPREY: Susan Duprey, aye.

18 PRESIDING OFCR. MARTIN: Dianne
19 Martin, aye.

20 MS. DUPREY: I'm sorry, Dianne.

21 PRESIDING OFCR. MARTIN: That's okay.
22 Go ahead.

23 MS. DUPREY: Susan Duprey, aye.

24 MR. IACOPINO: It's unanimous.

1 PRESIDING OFCR. MARTIN: Unanimous.

2 Is there any other business
3 pertaining to the Chinook Solar docket for
4 today?

5 *[No indication given.]*

6 PRESIDING OFCR. MARTIN: Is there any
7 new business that the Subcommittee can lawfully
8 address?

9 *[No indication given.]*

10 PRESIDING OFCR. MARTIN: Hearing
11 none, we're adjourned.

12 ***(Whereupon the Public Meeting of***
13 ***the Subcommittee was adjourned***
14 ***at 3:26 p.m.)***

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C E R T I F I C A T E

I, **Steven. E. Patnaude**, a Licensed Shorthand Court Reporter, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Steven E. Patnaude, LCR
Licensed Court Reporter
N.H. LCR No. 52
(RSA 310-A:173)